

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC, a Delaware Corporation; CAROLINE RECORDS, INC., a New York Corporation; VIRGIN RECORDS AMERICA, INC., a California Corporation; EMI BLACKWOOD MUSIC, INC., a Connecticut Corporation; EMI APRIL MUSIC, INC., a Connecticut Corporation; EMI FULL KEEL MUSIC, INC., a duly licensed Corporation; EMI VIRGIN MUSIC, INC., a New York Corporation; EMI ROBBINS CATALOG, INC., a New York Corporation; EMI WATERFORD MUSIC, INC., a California Corporation; EMI GROVE PARK MUSIC, INC., a California Corporation; COLGEMS-EMI MUSIC, INC., a Delaware Corporation; and EMI VIRGIN SONGS, INC., a New York Corporation

Plaintiffs,

v.

VIDEOEGG, INC. d/b/a VIDEOEGG.COM, a Delaware corporation; HI5 NETWORKS, INC. d/b/a HI5.COM; and DOES 1-10, inclusive

Defendants.

CASE NO. 08 CV 5831

DECLARATION OF MICHAEL ABITBOL
IN OPPOSITION TO MOTION OF
DEFENDANT HI5 NETWORKS, INC. TO
DISMISS, OR, ALTERNATIVELY, TO
TRANSFER VENUE

MICHAEL ABITBOL declares under the penalties of perjury as follows:

1. I am the Vice President for Legal & Business Affairs for EMI Music Publishing, located at 75 Ninth Avenue, 4th Floor, New York, New York. I make this Declaration upon personal knowledge and in opposition to the Motion to Dismiss, or Alternatively, to Transfer Venue, of Defendant Hi5 Networks, Inc. ("Hi5"). Among the music publishing companies that

are encompassed within the EMI Music Publishing group of companies are EMI Blackwood Music, Inc., EMI April Music, Inc., EMI Full Keel Music, Inc., EMI Virgin Music, Inc., EMI Robbins Catalog, Inc., EMI Waterford Music, Inc., EMI Grove Music Park, Inc., Colgems-EMI Music, Inc., and EMI Virgin Songs, Inc. (collectively, the “EMI Music Publishers”). I have personal knowledge regarding the business affairs of each of these companies.

2. The EMI Music Publishers are engaged in the business of acquiring, owning, publishing, administering, licensing, and otherwise exploiting copyrights in musical compositions. The EMI Music Publishers own or administer (in whole or in part) copyrights in and to thousands of musical compositions, including those compositions whose copyrights the defendants are alleged to have infringed in the instant action.

3. Each of the EMI Music Publishers maintains its principal place of business at 75 Ninth Avenue, 4th Floor, New York, NY 10011. Additionally, EMI Virgin Music, Inc. and EMI Robbins Catalog, Inc. are corporations duly organized and existing under the laws of the State of New York. None of the EMI Music Publishers maintains an office or employees in the Northern District of California.

4. Each of the corporate witnesses who would testify in this case on behalf of the EMI Music Publishers, including regarding the ownership and licensing of the musical compositions at issue and regarding the EMI Music Publishers’ injury from the alleged infringement, resides in the New York metropolitan area.

5. All of the documents that establish the EMI Music Publishers' ownership and exploitation of their catalogs of musical compositions (including copyright registrations, publishing agreements, license agreements, and chain-of-title documents) are maintained at their headquarters in New York, New York.

6. The EMI Music Publishers regularly conduct investigations from its offices in New York to locate infringing uses of their musical compositions over the Internet. In or around late 2007 and early 2008, under my supervision, representatives of EMI Music Publishing conducted an investigation of Hi5's website from our offices in New York City. Based on that investigation, we learned that Hi5 and thousands of its users were committing copyright infringement on a massive scale through the unauthorized uploading, sharing, and viewing of thousands of files containing musical compositions that are owned or controlled by the EMI Music Publishers. During this investigation, representatives of EMI Music Publishing viewed (and documented their viewing of) infringing files on Hi5's website from our offices in New York. Attached hereto as Exhibit 1 is a true and correct copy of a spreadsheet (which also was attached as Exhibit C to Plaintiffs' Complaint) listing videos that at one time were available on Hi5 containing the EMI Music Publishers' musical compositions, as well as the specific Hi5 URL ("Uniform Resource Locator") location on which these videos were found on the Hi5 website. All of the videos listed on Exhibit 1 were viewed at our New York offices.

7. All of the documents pertaining to EMI Music Publishing's investigation of Hi5 (with the exception of those generated by or provided to counsel) are located in the offices of

EMI Music Publishing in New York, and all of the witnesses who participated in that investigation reside in the New York metropolitan area.

8. During the course of our investigation, representatives of EMI Music Publishing took screenshots of Hi5 webpages containing videos embodying musical compositions whose copyrights are owned or controlled by EMI Music Publishing. Attached hereto as Exhibit 2 is a true and correct copy of two exemplar screenshots taken by a representative of EMI Music Publishing reflecting the availability on Hi5 of videos containing the musical compositions "Drive" and "Stellar," as performed by the recording artist "Incubus."

9. I declare under the penalties of perjury that the foregoing is true and correct.

Executed on August 15, 2008
New York, New York



MICHAEL ABITBOL

EXHIBIT 1

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Ludacris	Act A Fool	EMI April Music, Inc.		PA0001131142	7/10/2003	EMI April Music, Inc., Ludacris Music Publishing, Inc., Keith McMasters	http://hi5.com/friend/video/displayViewVideo.do?videoId=567214&ownerId=61583486
Lily Allen	Alfie	EMI April Music, Inc.		PA0001375895	3/22/2007	Universal Music Publishing, Ltd., EMI Music Publ., Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoId=5372569&ownerId=98478748
Robbie Williams	Angels	EMI Virgin Music, Inc.		PA0000956093	6/28/1999	EMI Virgin Music, Ltd. & BMG Music Publishers, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoId=883604&ownerId=45778721
Beyonce	Baby Boy	EMI April Music, Inc.		PA0001131131	7/9/2003	EMI Music Publishing, Ltd., TVT Music, Beyonce Publishing, Robert Waller	http://hi5.com/friend/video/displayViewVideo.do?videoId=1112412&ownerId=94120532
Tracy Chapman	Baby Can I Hold You	EMI April Music, Inc.		PA0000417830	5/5/1989	S B K April Music, Inc., Purple Rabbit Music	http://hi5.com/friend/video/displayViewVideo.do?videoId=2570722&ownerId=15539237
Kelly Clarkson	Because of You	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA0001161120	4/27/2005	Smelly Songs, Smells Like Metal Publishing, Dwight Frye Music, Inc., 12:06 Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoId=2618516&ownerId=17567704
Pussycat Dolls	Beep	EMI Blackwood Music, Inc.		PA0001162691	11/8/2005	EMI Blackwood Music, Inc., Cherry Lane Music Publ. Company, Inc., Arthouse Entertainment	http://hi5.com/friend/video/displayViewVideo.do?videoId=1844943&ownerId=71807069
The Used	Blue and Yellow	EMI Blackwood Music, Inc.		PA0001115830	10/17/2002	EMI Blackwood Music, Inc., Used Movement Music	http://hi5.com/friend/video/displayViewVideo.do?videoId=5676432&ownerId=88738368
Kelis	Bossy	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA0001165528	11/1/2006	EMI April Music, Inc., Levegas Publishing Company, Inc., Issy & Nemo Tunes, EMI Blackwood Music, Inc., Lost Poet Music, Soundtron Tunes, Captain Janeway Songs, Cachabri Music, Hitco South, Christopher Garrett's Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoId=1026016&ownerId=22050761

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Augustana	Boston	EMI April Music, Inc.		PA0001162841	12/2/2005	EMI April Music, Inc., Augustana Music, Inc.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=8957 16&ownerId=102691012
Mariah Carey	Breakdown	EMI April Music, Inc.		PA0000896279	6/1/1988	EMI April Music, Inc., Siet Music, Steven A. Jordan Music, Wish Bone Prod., Inc., Rye Songs, Sony/ATV Songs, LLC	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=5315 846&ownerId=39282462
Ben Harper	Burn One Down	EMI Virgin Music, Inc.		PA0000779620	12/4/1995	EMI Virgin Music, Inc., & Innocent Criminal	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3099 918&ownerId=45794290
Enya	Caribbean Blue	EMI Blackwood Music, Inc.		PA0000576063	2/20/1992	EMI Songs, Ltd.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=8455 53&ownerId=100993108
Destiny's Child	Cater 2 U	EMI Blackwood Music, Inc.		PA0001160018	11/24/2004	EMI Blackwood Music, Inc., Rodney Jerkins Productions, Inc., Beyonce Publishing, Keldria Music, No Harm Publishing	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1133 180&ownerId=93431626
Beyonce	Check On It	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA0001163316	1/24/2006	EMI Blackwood Music, Inc., Slim Thug Publishing, EMI April Music, Inc., Angela Beyonce Music, Swizz Beatz, Beyonce Publishing, Hitco Music, Team S Dot Publishing	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=2957 47&ownerId=5725172
Fergie	Clumsy	EMI Robbins Catalog Inc.	EMI April Music, Inc.	PA0001165468	10/27/2006	EMI April Music, Inc., Headphone Junkie Publishing, EMI Robbins Catalog, Inc., Warner/Chappell Re: 20th Century Fox Film, Will I Am Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=6905 567&ownerId=145884507
Save Ferris	Come On Eileen	Colgems-EMI Music Inc.		PA0000151516	9/20/1982	E M I Music Publishing, Ltd.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1173 933&ownerId=66610360

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Aerosmith	Crazy	EMI April Music, Inc.		PA0000641534	7/12/1993	EMI April Music, Inc., Desmobile Music Company, & Swag Song Music, Inc.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1138883&ownerId=16192716
Beyonce	Crazy In Love	EMI Blackwood Music, Inc.	EMI April Music, Inc.	PA0001131132	7/9/2003	EMI April Music, Inc., Carter Boys Publishing, EMI Blackwood Music, Inc., Dam Rich Music, Hitco South, Beyonce Publishing, Unichappell Music, Inc.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=2363108&ownerId=60563163
Blink-182	Dammit	EMI April Music, Inc.		PA0000893365	5/7/1998	EMI April Music, Inc., Fun with Goats	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=5564433&ownerId=106219830
Pink	Dear Mr. President	EMI Blackwood Music, Inc.		PA0001164163	5/1/2006	EMI Blackwood Music, Inc., Pink Inside Publishing, Turtle Victory	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3769048&ownerId=5725172
Zero 7	Destiny	EMI Blackwood Music, Inc.		PA0001131247	8/5/2003	EMI Music Publishing, Ltd., Universal Music Corp, Sophie Barker	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1298920&ownerId=106306653
Black Eyed Peas	Don't Phunk With My Heart	EMI Blackwood Music, Inc.	EMI April Music, Inc.	PA0001162090	8/2/2005	EMI Blackwood Music, Inc., El Cubano Music, Headphone Junkie Publishing, Will I Am Music, Printz Board Publ. Designee, Careers-BMG Music Publishing, Inc., Saregama India, PLC, EMI April Music, Inc.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=191914&ownerId=30367558
Incubus	Drive	EMI April Music, Inc.		PA0000978102	12/30/1999	EMI April Music, Inc., Hunglikeyora Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3409315&ownerId=11597810
Sting	Englishman in New York	EMI Blackwood Music, Inc.		PA0000369439	5/23/1988	Magnetic Publishing, Ltd.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3470065&ownerId=17020250
Depeche Mode	Enjoy the Silence	EMI Blackwood Music, Inc.		PA0000466216	4/27/1990	Grabbing Hands Music, Ltd., & Sonet Publishing, Ltd.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=860409&ownerId=104221786

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
The Police	Every Breath You Take	EMI Blackwood Music, Inc.		PA0000201652	6/23/1983	Magnetic Publishing, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=1759311&ownerId=5033305
Fergie	Fergalicious	EMI April Music, Inc.		PA0001165469	10/27/2006	EMI April Music, Inc., Headphone Junkie Publishing, Will I Am Music, Afro-Rican Publ., Ruthless Attack Muzick, Too Badd Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=934300&ownerId=82544702
Regina Spektor	Fidelity	EMI Blackwood Music, Inc.		PA0001164835	8/23/2006	Soviet Kitsch Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=5254925&ownerId=98478748
Beyonce	Freakum Dress	EMI Blackwood Music, Inc.	EMI April Music, Inc.	PA0001165938	11/28/2006	EMI Blackwood Music, Inc., Janice Combs Publishing, Inc., Yoga Flames Music, Dam Rich Music, EMI April Music, Inc., B-day Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=3809723&ownerId=15834575
Beyonce	Get Me Bodied	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA0001165939	11/28/2006	EMI Blackwood Music, Inc., Janice Combs Publishing, Inc., Yoga Flames Music, EMI April Music, Inc., B-day Publishing, Swizz Beatz, Angela Beyonce Music, Solange MWP Publishing, Hitco South, Christopher Garrett's Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=6268892&ownerId=65364683
Ray Parker Jr.	Ghostbusters	EMI Golden Torch Music Corp.		PA0000218114	7/13/1984	Golden Torch Music Corporation & Raydiola Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=5547034&ownerId=12170203
James Blunt	Goodbye My Lover	EMI Blackwood Music, Inc.		PA0001162698	11/9/2005	EMI Music Publishing, Ltd., Bucks Music, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=293114&ownerId=5725172
Shakira	Hips Don't Lie	EMI Blackwood Music, Inc.		PA0001164057	4/11/2006	EMI Blackwood Music, Inc., Te-Bass Music, Inc., Tete San Ko Publishing, Aniw Music, LanFranco Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=8004&ownerId=30367558

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
The Fray	How To Save A Life	EMI April Music, Inc.		PA0001162856	12/6/2005	EMI April Music, Inc., Aaron Edwards Publishing	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=5295 252&ownerId=67412514
Madonna	Hung Up	EMI Waterford Music, Inc.		PA0001162837	11/29/2005	EMI Waterford Music, Inc., Union Songs AB, Webco Girl Publishing, Inc., WB Music Corporation	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3637 03&ownerId=44481952
Christina Aguilera	Hurt	EMI Blackwood Music, Inc.		PA0001165262	10/6/2006	EMI Music Publishing, Ltd., Careers-BMG Music Publishing, Inc.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1840 712&ownerId=53016071
Lionel Richie	I Call It Love	EMI April Music, Inc.		PA0001165940	11/28/2006	EMI Music Publishing, Ltd., Fym Music, Sony/ATV Music, Ltd.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1995 3108&ownerId=73577023
Death Cab for Cutie	I Will Follow You Into The Dark	EMI Blackwood Music, Inc.		PA0001162537	10/4/2005	EMI Blackwood Music, Inc., Where I'm Calling From Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3655 701&ownerId=2186083
Alicia Keys	If I Ain't Got You	EMI April Music, Inc.		PA0001158216	12/12/2003	EMI April Music, Inc., Lellow Productions	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3228 581&ownerId=87590402
Rihanna	If It's Lovin That You Want	EMI Blackwood Music, Inc.		PA0001162726	11/16/2005	EMI Blackwood Music, Inc., Janice Combs Publishing, Inc., Yoga Flames Music, Enot Publishing, LLC, Zomba Enterprises, Inc., Jumping Beans Songs, BDP Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3260 445&ownerId=65364683
Matchbox Twenty	If You're Gone	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA0001006950	6/26/2000	EMI Blackwood Music, Inc., Bidnis, Inc.	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1157 313&ownerId=61381563
Shakira	Illegal	EMI Blackwood Music, Inc.		PA0001163395	2/1/2006	EMI Blackwood Music, Inc., Apollinaire Music, Aniwi Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1020 827&ownerId=84099976
Britney Spears	I'm A Slave 4 U	EMI Blackwood Music, Inc.	EMI April Music, Inc.	PA0001060309	11/23/2001	EMI Blackwood Music, Inc., Waters of Nazareth, EMI April Music, Inc., Chase Chad Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3591 122&ownerId=10766140

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Nelly Furtado	In God's Hands	EMI April Music, Inc.		PA0001164471	6/29/2006	Nelstar Publishing, Inc., EMI April Music, Inc, Future Furniture Music	http://hi5.com/friend/video/displayViewVideo.do?videoId=6859718&ownerId=5033305
Goo Goo Dolls	Iris	EMI Virgin Songs, Inc.		PA0000900647	6/3/1998	EMI Virgin Songs, Inc., Scrap Metal Music	http://hi5.com/friend/video/displayViewVideo.do?videoId=5909537&ownerId=128770244
Enya	It's In The Rain	EMI Blackwood Music, Inc.		PA0001163071	12/22/2005	EMI Music Publishing, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoId=1113441&ownerId=9767416
Jennifer Lopez	Jenny From The Block	EMI U Catalog, Inc.	EMI April Music, Inc.	PA0001105367	5/27/2003	EMI Unart Catalog, Inc., Chocolate Factory, Tunesmith Advancements Publishing, Nuyorican Publishing, Ekop Publishing, LLC, Enot Publishing, LLC, BMG Songs, Inc., BDP Music, Paniro's Publishing, Jae'wons Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoId=2206433&ownerId=73577023
Pink	Just Like A Pill	EMI Blackwood Music, Inc.	EMI April Music, Inc.	PA0001071111	1/9/2002	EMI April Music, Inc., Pink Panther Music, EMI Blackwood Music, Inc. & Cytron Music	http://hi5.com/friend/video/displayViewVideo.do?videoId=376627&ownerId=39037937
P. Diddy	Last Night	EMI April Music, Inc.	EMI Blackwood Music, Inc. / Foray Music	PA0001166186	12/7/2006	EMI April Music, Inc., Justin Combs Publishing Company, Inc., EMI Blackwood Music, Inc., Janice Combs Publishing, Inc., Marsky Music, Foray Music, Christian Combs Music, 2 Daughters Music, ZSX Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoId=5622817&ownerId=87590402
Hinder	Lips of An Angel	EMI Blackwood Music, Inc.		PA0001162967	12/14/2005	EMI Blackwood Music, Inc., Hinder Music Company	http://hi5.com/friend/video/displayViewVideo.do?videoId=685817&ownerId=102989528

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Fergie	London Bridge	EMI April Music, Inc.		PA0001165471	10/27/2006	EMI April Music, Inc., Headphone Junkie Publishing, Hitco Music, Team S Dot Publishing, Showdy Pimp Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=601403&ownerId=69384696
The Eagles	Love Will Keep Us Alive	EMI Virgin Songs, Inc.		PA0000795400	3/20/1996	EMI Virgin Music, Ltd., Paul Carrack, Jim Capaldi	http://hi5.com/friend/video/displayViewVideo.do?videoid=1818841&ownerId=101195517
Enya	May It Be	EMI Blackwood Music, Inc.		PA0001094666	5/23/2002	EMI Music Publishing, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=2392248&ownerId=6477162
D12	My Band	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA0001159347	6/15/2004	EMI April Music, Inc., Idiotic Biz, Derty Werks, Runyon Avenue Music, Swiftly Mc Vay, EMI Blackwood Music, Inc., Fulproof Publishing, Eight Mile Style, Jaceff Music, Resto World Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=5563505&ownerId=53393803
Usher	My Boo	EMI April Music, Inc.		PA0001159778	10/12/2004	EMI April Music, Inc., Lellow Productions, Shaniah Cymone Music, Phoenix Ave Music Publishing, Justin Combs Publishing Company, Inc., Ur-IV Music, Slack Ad Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=1567433&ownerId=16796021
Shakira	No	EMI Blackwood Music, Inc.		PA0001161600	6/13/2005	EMI Blackwood Music, Inc., Apollinaire Music, Aniw Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=1132713&ownerId=71427924
Blind Melon	No Rain	EMI April Music, Inc.		PA0000710307	5/31/1994	EMI April Music, Inc., Heavy Melon Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=2353704&ownerId=28688315
Pink	Nobody Knows	EMI Blackwood Music, Inc.		PA0001164165	5/1/2006	EMI Blackwood Music, Inc., Pink Inside Publishing, Turtle Victory	http://hi5.com/friend/video/displayViewVideo.do?videoid=926131&ownerId=7693814

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Enya	Only Time	EMI Blackwood Music, Inc.		PA0001050453	2/28/2001	EMI Music Publishing, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=5748800&ownerId=108242544
Hootie & The Blowfish	Only Wanna Be With You	EMI April Music, Inc.		PA0000734279	11/28/1994	EMI April Music, Inc. & Monica's Reluctance To Lob	http://hi5.com/friend/video/displayViewVideo.do?videoid=5645983&ownerId=13838836
Portishead	Only You	EMI Blackwood Music, Inc.		PA0000964922	9/30/1997	EMI Unart Catalog, Inc., EMI Blackwood Music, Inc., Beet Junkye Music, Chrysalis Music, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=1430935&ownerId=2142439
The Fray	Over My Head (Cable Car)	EMI April Music, Inc.		PA0001162858	12/6/2005	EMI April Music, Inc., Aaron Edwards Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=4096607&ownerId=6185752
50 Cent	P.I.M.P.	EMI April Music, Inc.		PA0001105184	3/31/2003	EMI April Music, Inc., Derty Werks, 50 Cent Music Publishing, B. Parrott	http://hi5.com/friend/video/displayViewVideo.do?videoid=3491957&ownerId=42371087
Black Eyed Peas	Pump It	EMI Grove Park Music, Inc.	EMI April Music, Inc.	PA0001162173	8/16/2005	EMI Grove Park Music, Inc., Headphone Junkie Publishing, EMI April Music, Inc., Will I Am Music, Jeepney Music Publishing, Reach Global	http://hi5.com/friend/video/displayViewVideo.do?videoid=282103&ownerId=41419374
Amy Winehouse	Rehab	EMI Blackwood Music, Inc.		PA0001167207	3/15/2007	EMI Music Publishing, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=6337805&ownerId=15627446
Danity Kane	Ride for You	EMI April Music, Inc.		PA0001165257	10/6/2006	EMI April Music, Inc., Justin Combs Publishing Company, Inc., Phoenix Ave Music Publishing, Face the Music, Baby Boys Little Publishing Company, Bre's Musicbox	http://hi5.com/friend/video/displayViewVideo.do?videoid=3128400&ownerId=72060592

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Justin Timberlake	Rock Your Body	EMI April Music, Inc.	EMI Blackwood Music, Inc.	PA000118862	11/21/2002	EMI April Music, Inc., Chase Chad Music, EMI Blackwood Music, Inc., Waters of Nazareth, Tennman Tunes	http://hi5.com/friend/video/displayViewVideo.do?videoid=3202824&ownerId=102691012
Regina Spektor	Samson	EMI Blackwood Music, Inc.		PA0001286734	7/20/2005	Regina Spektor, 1980-, d.b.a. Soviet Kitsch Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=3247024&ownerId=87590402
Chris Brown	Say Goodbye	EMI April Music, Inc.		PA0001163325	1/25/2006	EMI April Music, Inc., Justin Combs Publishing Company, Inc., Phoenix Ave Music Publishing, Baby Boys Little Publishing Company	http://hi5.com/friend/video/displayViewVideo.do?videoid=2099314&ownerId=107896311
Third Eye Blind	Semi-Charmed Life	EMI Blackwood Music, Inc.		PA0000797856	8/25/1997	EMI Blackwood Music, Inc., 3EB Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=4010010&ownerId=83319098
Bow Wow	Shortie Like Mine	EMI April Music, Inc.		PA0001166739	1/22/2007	EMI April Music, Inc., Shaniah Cymone Music, Air Control Music, Thowin' Tantrums Music, Naked Under My Clothes, Baby Boys Little Publishing Company	http://hi5.com/friend/video/displayViewVideo.do?videoid=5247900&ownerId=99334417
Janet Jackson	So Excited	EMI April Music, Inc.		PA0001166013	11/29/2006	EMI April Music, Inc., Flyte Tyme Tunes, Inc., Shaniah Cymone Music, Naked Under My Clothes, Air Control Music, Basajamba Music, Giobella, LLC, Hancock Music, More Cut Music, Bridge Of Sighs Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=1026401&ownerId=64255336
Ne-Yo	So Sick	EMI April Music, Inc.		PA0001163977	3/31/2006	EMI Music Publishing, Ltd., Sony/ATV Music, Ltd., Zomba Music Publishers	http://hi5.com/friend/video/displayViewVideo.do?videoid=629623&ownerId=33881261
Tool	Sober	EMI Virgin Music, Inc.		PA0000628773	7/28/1993	EMI Virgin Music, Inc., & Toolshed Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=1277798&ownerId=9131696

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Incubus	Stellar	EMI April Music, Inc.		PA0000978102	12/30/1999	EMI April Music, Inc., Hunglikkeyora Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=4210 307&ownerId=11597810
Pink	Stupid Girls	EMI Blackwood Music, Inc.		PA0001164168	5/1/2006	EMI Blackwood Music, Inc., Pink Inside Publishing, Turtle Victory	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1216 735&ownerId=3486279
Norah Jones	Sunrise	EMI April Music, Inc.		PA0001159030	4/8/2004	EMI Songs, Ltd., Unichappell Music, Inc., Geomantic Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1249 311&ownerId=5725172
Five For Fighting	Superman	EMI Blackwood Music, Inc.		PA0001029927	12/12/2000	EMI Blackwood Music, Inc. & Five For Fighting Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=4986 213&ownerId=42668964
Sean Paul	Temperature	EMI April Music, Inc.		PA0001162634	10/25/2005	EMI Music Publishing, Ltd., Jencone Snowcone Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=6677 11&ownerId=6657087
Panic! At The Disco	The Only Difference Between Martyrdom and Suicide is Press Coverage	EMI April Music, Inc.		PA0001162943	12/12/2005	EMI April Music, Inc., Sweet Chin Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=3926 121&ownerId=5910225
Celine Dion	The Power of Love	EMI April Music, Inc.		PA0000408858	12/27/1988	S B K Songs Musikverlage, Libraphone Musikverlage	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=4994 605&ownerId=52024331
Stone Sour	Through Glass	EMI April Music, Inc.		PA0001165083	9/26/2006	EMI April Music, Inc., Stone Sour Music, LLC, Music That Music	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=2643 02&ownerId=66213844
Mr. Big	To Be With You	EMI April Music, Inc.		PA0000542741	8/28/1991	EMI April Music, Inc., Dog Turner Music & Eric Martin Songs	http://hi5.com/friend/video/displ ayViewVideo.do?videoid=1109 537&ownerId=84099976

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Natalie Imbruglia	Torn	Colgems-EMI Music Inc.		PA0000705322	8/4/1995	Songs of Polygram International, Inc., Weetle-Pie Music, Scott Cutler Music, EMI Music, Inc. & Phil Thornally Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=6876260&ownerId=48608838
Britney Spears	Toxic	Colgems-EMI Music Inc.		PA0001158179	12/11/2003	EMI Music Publishing, Ltd., Murlyn Songs	http://hi5.com/friend/video/displayViewVideo.do?videoid=292119&ownerId=53405695
Rihanna	Unfaithful	EMI April Music, Inc.		PA0001164296	5/16/2006	EMI Music Publishing, Ltd., Sony/ATV Music, Ltd., Zomba Music Publishing, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=237530&ownerId=59628712
Beyonce	Upgrade U	EMI Longitude Music	EMI April Music, Inc. / EMI Blackwood Music, Inc.	PA0001165461	10/26/2006	EMI April Music, Inc., B-day Publishing, EMI Longitude Music, Carter Boys Publishing, EMI Blackwood Music, Inc., Yoga Flames Music, Janice Combs Publishing, Inc., MWP Publishing, Christopher Garrett's Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=3239023&ownerId=11728246
Jamiroquai	Virtual Insanity	EMI Blackwood Music, Inc.		PA0000852396	7/3/1997	EMI Music Publishing, Ltd., & EMI Blackwood Music, Inc.	http://hi5.com/friend/video/displayViewVideo.do?videoid=2663811&ownerId=106487682
Foo Fighters	Walking After You	EMI Virgin Songs, Inc.		PA0000875688	7/24/1997	MJ Twelve Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=5304810&ownerId=41953915
Katrina and The Waves	Walking on Sunshine	Screen Gems-EMI Music Inc.		PA0000244407	4/16/1985	Megasongs, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=854406&ownerId=102103397
Spice Girls	Wannabe	EMI Full Keel Music		PA0000823685	11/29/1996	Polygram Music Publishing, Ltd., & Windswept Pacific Music, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=2088613&ownerId=104434351

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Mariah Carey	We Belong Together	EMI April Music, Inc.		PA0001162027	7/7/2005	EMI April Music, Inc., Shaniah Cymone Music, Slack A.D. Music, Naked Under My Clothes, Rye Songs, Ballads by Design, Abkco Music, Inc., Sony/ATV Music Publishing, Warner-Tamerlane Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=2545220&ownerId=80731590
Rihanna	We Ride	EMI Blackwood Music, Inc.	EMI April Music, Inc.	PA0001164300	5/16/2006	EMI Blackwood Music, Inc., Janice Combs Publishing, Inc., Yoga Flames Music, EMI Music Publishing, Ltd., Sony/ATV Music, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoid=3807927&ownerId=67894025
Blink-182	What's My Age Again?	EMI April Music, Inc.		PA00000957349	6/28/1999	EMI April Music, Inc. & Fun With Goats	http://hi5.com/friend/video/displayViewVideo.do?videoid=1841531&ownerId=53876609
Black Eyed Peas	Where is the Love	EMI Blackwood Music, Inc.		PA0001158942	3/23/2004	EMI Blackwood Music, Inc., El Cubano Music, Will I Am Music, Printz Board, Tuono Music, Nawasha Networks, Jeepney Music Publishing, Tennman Tunes	http://hi5.com/friend/video/displayViewVideo.do?videoid=1052318&ownerId=46484020
Pink	Who Knew	EMI Blackwood Music, Inc.		PA0001164173	5/1/2006	EMI Blackwood Music, Inc., Pink Inside Publishing, Maratone, AB, Kasz Money Publishing	http://hi5.com/friend/video/displayViewVideo.do?videoid=2080007&ownerId=106144447
Jewel	Who Will Save Your Soul	EMI April Music, Inc.		PA00000806918	8/8/1996	WB Music Corporation, Wiggly Tooth Music	http://hi5.com/friend/video/displayViewVideo.do?videoid=5269203&ownerId=60815509

Schedule C - Plaintiffs' Musical Compositions - Hi5 Infringements

Example Artist	Title	Current EMI Administrator USA	Additional Current EMI Administrator(s) USA	Registration Number	Registration Date	Original Claimants	Hi5 URL
Usher	Yeah	EMI April Music, Inc.		PA0001159089	4/20/2004	EMI April Music, Inc., Air Control Music, Basajamba Music, Me and Marq Music, Ludacris Music Publishing, Inc., Hitco South, Christopher Matthew Music, Christopher Garrett's Publishing, Swole Music, Robert McDowell	http://hi5.com/friend/video/displayViewVideo.do?videoId=292122&ownerId=53405695
James Blunt	You're Beautiful	EMI Blackwood Music, Inc.		PA0001162696	11/9/2005	EMI Music Publishing, Ltd., Bucks Music, Ltd.	http://hi5.com/friend/video/displayViewVideo.do?videoId=355501&ownerId=12730100

EXHIBIT 2

hi5 - Video - Incubus - Drive - Windows Internet Explorer provided by EMI Music Publishing

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC, a Delaware Corporation; CAROLINE RECORDS, INC., a New York Corporation; VIRGIN RECORDS AMERICA, INC., a California Corporation; EMI BLACKWOOD MUSIC, INC., a Connecticut Corporation; EMI APRIL MUSIC, INC., a Connecticut Corporation; EMI FULL KEEL MUSIC, INC., a duly licensed Corporation; EMI VIRGIN MUSIC, INC., a New York Corporation; EMI ROBBINS CATALOG, INC., a New York Corporation; EMI WATERFORD MUSIC, INC., a California Corporation; EMI GROVE PARK MUSIC, INC., a California Corporation; COLGEMS-EMI MUSIC, INC., a Delaware Corporation; and EMI VIRGIN SONGS, INC., a New York Corporation

Plaintiffs,

v.

VIDEOEGG, INC. d/b/a VIDEOEGG.COM, a Delaware corporation; HI5 NETWORKS, INC. d/b/a HI5.COM; and DOES 1-10, inclusive

Defendants.

CASE NO. 08 CV 5831

CERTIFICATE OF SERVICE

I, Jeffrey M. Movit, hereby certify that on August 18, 2008 the Opposition of Plaintiff to Motion to Dismiss, or Alternatively, to Transfer Venue of Defendant Hi5 Networks, Inc.; and the accompanying Declarations of Marc Mayer, Alasdair McMullan, and Michael Abitbol were filed via CM/ECF, which will provide electronic copies and notification of filing to counsel of record for defendants VideoEgg, Inc. and Hi5 Networks, Inc.

DATED: New York, New York
August 18, 2008

MITCHELL SILBERBERG & KNUPP LLP

By: 

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